

## REMARKS

Claims 1-66 remain pending in the application.

Reconsideration and allowance of this application is respectfully requested.

The Office Action dated October 20, 2006, stated the 37 C.F.R. § 1.131 declarations were insufficient to provide a basis to antedate U.S. Patent Application No. 2004/0003285 to Whelan et al. (hereinafter "Whelan"), and therefore the 35 U.S.C. § 102(e) rejections were maintained.

In response to the October 20, 2006, Office Action, applicant has filed a Rule 1.131 declaration of Jim Flanagan along with Exhibit C. Applicant notes that Exhibit C is filed under M.P.E.P. 724 as proprietary material for viewing by the Examiner, or other authorized U.S.P.T.O. personnel, only.

In his declaration, Mr. Flanagan has related various elements of independent Claim 1 to the code module, FILTER.C, which is one of the files listed in previously submitted Exhibit A, and is a version of FILTER.C that existed prior to June 2002. For convenience, applicant points out that the routines identified in Mr. Flanagan's declaration are found on pages 3, 5, and 10.

Applicant notes that each independent claim, particularly Claims 1, 18, 34, 42, 54, and 66, while of differing scope and breadth, generally includes the elements discussed in Mr. Flanagan's declaration, and are found in the code module FILTER.C having a date prior to June 2002.

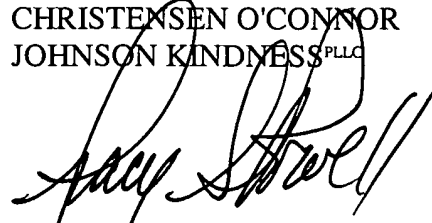
Applicant submits that, as evidenced by the declarations from Mr. Flanagan, Mr. O'Brien, and Ms. Anderson, and the exhibits submitted, applicant had reduced to practice and was in possession of the invention as embodied in the independent claims prior to June 2002. As applicant's invention antedates the Whelan reference, applicant respectfully requests that the 35 U.S.C. § 102(e) rejections be withdrawn, and the claims allowed.

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

In view of the above remarks, applicant respectfully submits that the present application is in condition for allowance. Allowance of the claims at an early date is solicited. If the Examiner has any questions or comments concerning the foregoing response, the Examiner is invited to contact the applicant's undersigned attorney at the number below.

Respectfully submitted,

CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>



Tracy S. Powell  
Registration No. 53,479  
Direct Dial No. 206.695.1786

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first-class mail with postage thereon fully prepaid and addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date:

Dec. 20, 2006

Lori A Lewis

TSP:lal

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100